

## Appendix B: ARAR's

## USEPA FEDERAL AND STATE ARAR LIST FOR MINING REMOVAL ACTIONS IN SOUTHEAST IDAHO

## APPLICABLE OR RELEVANT AND APPROPRIATE REQUIREMENTS (ARAR's)

All pertinent federal and State of Idaho ARARs will be complied with to the maximum extent practicable. The State of Idaho has been involved in the identification of ARARs through the development of the Area Wide Risk management Plan. The following table represents the list of federal and state ARARs for CERCLA removal actions.

Standard, Limitation, or Requirement Criteria	Citation	Description	Category
Safe Drinking Water Act	42 U.S.C. §§ 300f et seq.	Protection of public water systems and underground sources of drinking water	Applicable
National Primary Drinking Water Regulations	40 C.F.R. Part 141	Establishes health-based standards (MCLs) for public water systems	Applicable
National Secondary Drinking Water Regulations	40 C.F.R. Part 143	Establishes welfare-based standards (secondary MCLs) for public water systems	TBC
Clean Water Act	33 U.S.C. §§ 1251 et seq.	Water Pollution Prevention and Control	Applicable
Section 404 of the Clean Water Act	33 U.S.C. § 1344, 33 C.F.R. Parts 320-330, 40 C.F.R. Part 230	Dredge or fill requirements	
Water Quality Standards	40 C.F.R. Part 131	Sets criteria for water quality based on toxicity to aquatic organisms and human health	Applicable
National Pollutant Discharge Elimination System (NPDES) Permit Regulations	40 CFR § 122 to 125		Applicable
Clean Air Act	42 U.S.C. § 7409		
Surface Mining Control and Reclamation Act	30 U.S.C. § 1201 30 C.F.R. Part 816 30 C.F.R. Part 784	Permanent program performance standards – surface mining activities. Minimum requirements for reclamation and operations.	Relevant and Appropriate
Resource Conservation and Recovery Act	42 U.S.C. §§ 6901 et seq. 40 C.F.R. Parts 260-268		
Archaeological and Historic Preservation Act	40 C.F.R. § 8.301	Data recovery and preservation activities.	Applicable
National Historic Preservation Act	16 U.S.C. §§ 470f, 38 C.F.R. Parts 60, 63	Section 106 of NHPA process balances needs of Federal undertaking with effects the undertaking may have on	Applicable

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	and 800, 40 C.F.R. § 8.301	historic properties	
Historic Sites, Building and Antiquities Act	16 U.S.C. § 461		
Protection of Floodplains	40 C.F.R. § 6.302 and Appendix A		
Protection of Wetlands	40 C.F.R. § 6.302	Wetlands Protection: Executive Order 11990 requires agencies conducting certain activities to avoid, to the extent possible, the adverse impacts associated with the destruction or loss of wetlands and to avoid support of new construction in wetlands if a practicable alternative exists.	
Rivers and Harbors Act	33 U.S.C. §§ 401 et seq. 33 C.F.R. Parts 320-330		
Migratory Bird Treaty Act	16 U.S.C. §§ 703 et seq.	Taking, killing, possessing migratory game unlawful	Applicable
Fish and Wildlife Coordination Act	16 U.S.C. § 661 40 C.F.R. § 6.302	Fish and wildlife protection: requires federal agencies involved in actions that will result in the control or structural modification of any natural stream or body of water for any purpose, to take action to protect the fish and wildlife resources that may be affected by the action.	
Bald Eagle Protection Act	16 U.S.C. § 668 50 C.F.R. Part 22		
Endangered Species Act	16 U.S.C. §§ 1531 et seq. 50 C.F.R. Part 402 40 C.F.R. § 6.302	Requires consultation with Services charged with protecting listed species.	Applicable
American Indian Religious Freedom Act	42 U.S.C. §§ 1996 et seq.		
Native American Graves Protection and Repatriation Act	25 U.S.C. §§ 3001 et seq.		
Idaho Water Quality Standards	IDAPA 58.01.02	Water quality standards and wastewater treatment requirements, including: water quality criteria for aquatic life use designations (.250) Designations of surface waters found within Salmon Basin (.130) General surface water quality criteria (.200) Mixing zone policy (.080)	
Idaho Ground Water Quality Rule	IDAPA 58.01.11.200	Numerical and narrative standards that apply to all groundwater of the state	
Rules and Standards for Hazardous Waste	IDAPA 58.01.05		

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Solid Waste Management Rules	IDAPA 58.01.06		
Idaho Classification and Protection of Wildlife Rule	IDAPA 13.01.06.300	Classifies fish and wildlife species; identifies species of special concern, and protection of wildlife species from taking and possessing.	
Preservation of Historical Sites	Idaho Statutes Title 67, Chapters 46 and 41		
Stream Channel Alteration Rules	IDAPA 37.03.07		
Rules for the Control of Air Pollution	IDAPA 58.01.01	Including .650 and .651	
Safety of Dams Rules	IDAPA 37.03.06	Guidance to establish acceptable standards for construction and to provide for safety evaluation of new or existing dams.	
Mine Tailings Impoundment Structure Rules	IDAPA 37.03.05	Applies to structures upon which construction, lift construction, enlargement, or alteration is underway on or after July 1, 1978. Establishes design criteria.	
Idaho Non-Point Source Management Plan			TBC
Idaho proposed rule change	Docket No. 58-0102-0103d (Ammonia)		Relevant and Appropriate
NOAA Freshwater Sediment Benchmarks	(Buchman 1999)		TBC
Considering Wetlands at CERCLA Sites Guidance (OSWER 9280.03, May 1994)			TBC
National Recommended Water Quality Criteria November 2002			Relevant and Appropriate

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## Compliance with Applicable or Relevant and Appropriate Requirements (ARARs)

The selected removal action will comply with those federal, state, and tribal requirements that are applicable or relevant and appropriate to the scope of the response action and that are listed in the above table or set forth in the text below.

The ARARs discussed below are under these categories:

- waste management,
- air quality,
- surface water quality,
- drinking water quality,
- Native American concerns and cultural resources protection,
- special status species,
- sensitive environments, and
- other requirements.

Guidance and other nonpromulgated materials to be considered (TBC) are described in the last subsection.

## 1 WASTE MANAGEMENT

*Idaho Solid Waste Management Rules* regulations, IDAPA 58.01.06. Idaho regulations define the siting, design, operational, and closure requirements for solid waste management facilities. "Tier II" and "Tier III" facilities include landfills for non-municipal solid wastes, with Tier III facilities generally for management of solid wastes where leachate or gas may be formed. These regulations explicitly do not apply to "waste dumps, . . . tailings and other materials uniquely associated with mineral extraction, beneficiation or processing operation" and thus are not applicable. However, Tier II non-municipal solid waste landfill requirements are relevant and appropriate to the design, operation, and closure of mine waste rock piles and tailings impoundments. Sections of Tier III non-municipal solid waste landfill requirements may be relevant and appropriate to the design, operation, and closure of tailings impoundment and waste rock piles that include principal threat materials (e.g., metal concentrates)

*RCRA Subtitle C: Hazardous Waste Management*, IDAPA 58.01.06. Pursuant to the RCRA Bevill Amendment, 40 U.S.C. § 6921(b)(3)(A), solid wastes from the extraction, beneficiation, and some processing of ores and minerals are excluded from the RCRA Subtitle C requirements for managing hazardous wastes. At the Site, such excluded wastes include waste rock, mill tailings, and metal concentrates. However, elements of Subtitle C may be relevant and appropriate to ensure the safe management of solid wastes identified as principal threat materials (e.g., metal concentrates.) RCRA Subtitle C elements that may be relevant and appropriate may include, for example, selected portions of the requirements for design and operation of a hazardous waste landfill, 40 CFR Part 264, Subpart N, IDAPA 58.01.05.009, and selected portions of the requirements for landfill closure and post-closure, 40 CFR Part 264, Subpart G, IDAPA 58.01.06.012-.013. For the management of RCRA hazardous wastes that are not Bevill-exempt, applicability of Subtitle C provisions depend on whether the wastes are managed within an Area of Contamination (AOC). 55 FR 8760 (Mar. 8, 1990). Applicable requirements of RCRA Subtitle C (or the state equivalent) may be satisfied by off-site disposal, consistent with the Off-Site Disposal Rule, 40 CFR § 300.440. RCRA Subtitle C also provides treatment standards for debris contaminated with hazardous waste ("hazardous debris"), 40 CFR § 268.45, IDAPA 16.01.05.011, although the lead agency may determine that such debris is no longer hazardous, consistent with 40 CFR § 261.3(f)(2), IDAPA 16.01.05. These requirements will be applicable for debris contaminated with hazardous waste that will be managed outside an AOC.

*RCRA Subtitle D: Criteria for Classification of Solid Waste Disposal Facilities and Practices*, 40 CFR Part 257, Subpart A. These regulations are applicable for management and disposal of material generated by cleanup activity pursuant to the selected response action. Written for non-municipal non-hazardous waste disposal units, the regulations require that facilities in floodplains not restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste; and not cause or contribute to the taking of any endangered or threatened species. Facilities must not cause a discharge of pollutants into waters of the U.S. that violates the requirements of the National Pollutant Discharge Elimination System and must not contaminate an underground drinking water source beyond the solid waste boundary.

*Idaho Land Remediation Rules*, IDAPA 58.01.18.027. The Idaho Land Remediation Rules are only applicable to persons who wish to enter voluntary remediation agreements with the State of Idaho. However, the Federal Agencies have concluded that the institutional Controls provisions of these regulations may be relevant and appropriate for managing waste in locations at the Site where metals concentrations remain above risk or regulatory

levels after remediation. These provisions describe a range of institutional controls, including legal use restrictions, that may be available in certain situations.

*Idaho Exploration and Surface Mining regulations*, IDAPA 20.03.02. These regulations apply to "surface mining operations," as defined to mean the activities performed in an area where minerals are extracted from the ground. "Minerals" include clay, stone, sand, gravel, "and any other similar, solid material or substance of commercial value to be excavated from natural deposits on or in the earth." IDAPA 20.03.02.010. Substantive requirements of these regulations apply to borrow sources for soil, gravel, and similar clean materials for areas requiring fill or barriers to underlying contamination. Provisions of IDAPA 20.03.02.140 are not mandatory, but may be relevant and appropriate to the placement and consolidation of contaminated material generated by cleanup activity pursuant to the selected removal action. Best management practices are listed for nonpoint source sediment control, clearing and grubbing, placement of topsoil conducive to the growth of vegetation, backfilling and grading, and erosion control.

## 2 AIR QUALITY

*Clean Air Act regulations, National Primary and Secondary Ambient Air Quality Standards (NAAQS)*, 40 CFR Part 50. These regulations are relevant and appropriate to soil removal operations which may generate fugitive emissions. NAAQS have been promulgated for fine and coarse particulates and for lead.

*Idaho Rules for Control of Fugitive Dust*, IDAPA 58.01.01.650-651. These regulations are applicable to soil removal operations which may generate fugitive emissions. They require that reasonable precautions be taken to prevent particulate matter from becoming airborne, including using water or chemicals to control dust; covering trucks for transporting materials, and promptly removing excavated materials.

*Idaho Pollution Control regulations: Toxic Air Pollutants*, IDAPA 58.01.01.585-586. These regulations provide screening emission levels and acceptable ambient concentrations (AAC) for designated noncarcinogens and for carcinogens. If a response action under CERCLA causes an emission exceeding the ACC, Best Available Control Technology (BACT) must be applied until the emission level falls below the AAC. IDAPA 58.01.01.16. These regulations are applicable to elements of the selected action having the potential for creating excessive air emissions. Actions will be carried out to minimize air emissions, and BACT will be applied if necessary to remain below acceptable ambient levels.

### 3 SURFACE WATER QUALITY

*Clean Water Act Storm Water Multi-Sector General Permit for Industrial Activities*. 65 FR 64746-64880 and 40 CFR 122.26. These regulations provide that discharges of storm water associated with "industrial activities" require an NPDES permit. "Industrial activities" include inactive mining facilities, hazardous waste treatment units, and RCRA Subtitle D landfills. The substantive requirements of the Storm Water Multi-Sector General Permit for Industrial Activities (Oct. 30, 2000) apply to elements of the response action that result in discharges of storm water. Best Management Practices (BMPs) must be used, and appropriate monitoring performed, to ensure that storm water runoff does not exceed state water quality standards. It is not an ARAR for seepage or mine drainage.

*Clean Water Act Section 304-- Federal Ambient Water Quality*, 71 FR 18935-18936 (April 12, 2001) and . Section 304(a)(1) of the Clean Water Act requires EPA to develop, publish, and revise criteria for water quality accurately reflecting the latest scientific knowledge. CERCLA Section 121(d)(2)(B)(i) provides that, "In determining whether or not any water quality criteria under the Clean Water Act is relevant and appropriate under the circumstances of the release or threatened release, the President shall consider the designated or potential use of the surface or groundwater, the environmental media affected, the purposes for which such criteria were developed, and the latest information available." In November, 2002, EPA notified the public of revised Ambient Water Quality Aquatic Life Criteria. These revised criteria are relevant and appropriate to point source discharges to surface water, where those point sources are established as part of the selected response action. These values are relevant and appropriate for the selected response action because they represent the latest scientific knowledge, as determined by EPA's Health and Ecological Criteria Division, Office of Science and Technology. They are also relevant and appropriate for the selected response action because these criteria were developed to better protect aquatic organisms such as bull trout, a threatened species. The selected response action will satisfy this ARAR by ensuring that point source discharges established by the response action do not cause exceedances of the Water Quality Criteria in receiving surface waters.

*Idaho Water Quality Standards and Wastewater Treatment Requirements*, IDAPA 58.01.02. Idaho water quality standards (WQS) for protection of human health and aquatic incorporate the National Toxics Rule (40 CFR 131.36) by reference for waters designated for aquatic life, recreation, and domestic water supply (Section 210). The Idaho WQS also include turbidity standards for protection of aquatic life (cold water biota) are also applicable (Section 250). The Idaho WQS that were submitted to EPA prior to May 30, 2000, and any changes adopted by Idaho and approved by EPA between May 30, 2000 and the date of this decision document, are applicable to point source discharges to Idaho surface

water, where those point sources are established as part of the selected response action e.g., the discharge at Outfall 003. WQS that have been adopted by Idaho but not yet submitted to or approved by EPA, and are more stringent than the standards submitted to EPA prior to May 30, 2002, if any, are relevant and appropriate to point source discharges to Idaho surface water, where those point sources are established as part of the selected response action. Where Idaho WQS are applicable or relevant and appropriate to the selected response action, point source discharges established by the response action must not cause exceedances of WQS in the receiving water body. Effluent limits have been calculated and must be met at Outfall 003.

*Idaho Stream Channel Alteration* regulations, IDAPA 37.03.07. These regulations are applicable to any alteration of stream channels. "Alteration" means to change the natural shape of a stream channel, including by removing or placing any material or structures with potential to affect the flow within the channel. The substantive requirements of these regulations are applicable to elements of the selected response action with potential to affect stream flows. Substantive requirements include standards for placement of rock riprap and for construction of cofferdams and temporary stream crossings.

*Clean Water Act, Section 404 - Dredge or Fill Requirements*, 33 U.S.C. § 1344, 33 CFR Parts 320-330; 40 CFR Part 230. These requirements are applicable to work in or near navigable waters. They establish requirements that limit the discharge of dredged or fill material into navigable waters and associated wetlands. EPA guidelines for discharge of dredged or fill materials in 40 CFR Part 230 specify consideration of alternatives that have less adverse impacts and prohibit discharges that would result in exceedance of surface water quality standards, exceedance of toxic effluent standards, and jeopardy of threatened or endangered species. Special consideration required for "special aquatic sites" defined to include wetlands.

### 4 DRINKING WATER QUALITY

*Safe Drinking Water Act, National Primary Drinking Water* regulations, 42 U.S.C. § 300f, 40 CFR Part 141, IDAPA 58.01.08.050. These regulations are applicable to public drinking water systems and are relevant and appropriate to the provision of alternate water supplies and sources of drinking water. The regulations require that contaminant concentrations in drinking water fall below maximum contaminant levels (MCLs) and non-zero MCL goals (MCLGs). By final rule effective February 22, 2002, EPA lowered the MCL for arsenic from 0.05 mg/l to 0.01 mg/l. 66 FR 7061. While

community water systems have until January 2006 to comply with the new MCL for arsenic, EPA has determined that the new MCL is relevant and appropriate presently for ensuring that drinking water is protective of human health.

## 5 NATIVE AMERICAN CONCERNS AND CULTURAL RESOURCES PROTECTION

*Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. § 3001 et. seq., 43 CFR Part 10.* NAGPRA and implementing regulations are intended to protect Native American graves from desecration through the removal and trafficking of human remains and "cultural items" including funerary and sacred objects. To protect Native American burials and cultural items, the regulations require that if such items are inadvertently discovered during excavation, the excavation must cease and the affiliated tribes must be notified and consulted. This program is applicable to ground disturbing activities such as soil grading and removal.

*American Indian Religious Freedom Act, 42 U.S.C. § 1996 et seq..* This statute is applicable to soil excavation. It protects religious, ceremonial, and burial sites and the free practice of religions by Native American groups. If sacred sites are discovered in the course of soil disturbances, work will be stopped and the Tribes will be contacted. The statute has no implementing regulations; following the NAGPRA process should meet with the intent of the law.

*National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, 36 CFR Parts 60, 63, and 800.* The NHPA and implementing regulations require agencies to consider the possible effects on historic sites or structures of actions proposed for federal funding or approval. Historic sites or structures are those included on or eligible for the National Register of Historic Places, generally older than 50 years. If an agency finds a potential adverse effect on historic sites or structures, such agency must evaluate alternatives to "avoid, minimize, or mitigate" the impact, in consultation with the State Historic Preservation Office (SHPO). The NHPA and implementing regulations are applicable to selected remedial activities such as mill building demolition and soil excavation which could disturb historical sites or structures. In consultation with the SHPO, unavoidable impacts on historic sites or structures may be mitigated through such means as taking photographs and collecting historical records.

*Archaeological Resources Protection Act (ARPA), 16 U.S.C. § 470aa et. seq., 43 CFR Part 7.* ARPA and implementing regulations prohibit the unauthorized disturbance of archaeological resources on public and Indian lands. Archaeological resources are "any material remains of past human life and activities which are of archaeological interest," including pottery, baskets, tools, and human skeletal remains. The unauthorized removal of archaeological resources from public or

Indian lands is, and any archaeological investigations at a site must be conducted by a professional archaeologist. ARPA and implementing regulations are applicable for the conduct of any selected response action that may result in ground disturbance.

## 6 SPECIAL STATUS SPECIES

*Endangered Species Act (ESA), 16 USC 1531 et. seq., 50 CFR Parts 17, 402.* The ESA and implementing regulations make it unlawful to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any federally-designated threatened or endangered species. The ESA and implementing regulations are applicable to activities of the selected response action that could affect federally-designated threatened or endangered species that may be present. Such species may include salmonids, bull trout, bald eagle, lynx, and gray wolf. Consistent with ESA Section 7, because federally-designated threatened or endangered species are identified in the vicinity of response action work, EPA is consulting with the National Oceanic and Atmospheric Administration, Fisheries Service, and the U.S. Fish and Wildlife Service to ensure that actions are conducted in a manner to minimize adverse habitat modification and is not likely to jeopardize the continued existence of such species.

*Idaho Classification and Protection of Wildlife regulations, IDAPA 13.01.06.* These regulations are relevant and appropriate to response actions that could affect wildlife species protected by the state, including species listed by state regulation as endangered, threatened, species of special concern, and protected nongame.

**6.1 Migratory Bird Treaty Act (MBTA), 16 USC 703 et seq.** The MBTA makes it unlawful to "hunt, take, capture, kill" or take various other actions adversely affecting a broad range of migratory birds, including tundra swans, hawks, falcons, songbirds, without prior approval by the U.S. Fish and Wildlife Service. (See 50 CFR 10.13 for the list of birds protected under the MBTA.) Under the MBTA, permits may be issued for take (e.g., for research) or killing of migratory birds (e.g., hunting licenses). The mortality of migratory birds due to ingestion of contaminated sediment is not a permitted take under the MBTA. The MBTA and its implementing regulations are relevant and appropriate for protecting migratory bird species identified. The selected response action will be carried out in a manner that avoids the taking or killing of protected migratory bird species, including individual birds or their nests or eggs.

**7 SENSITIVE ENVIRONMENTS**

*Rivers and Harbors Act* Section 10 regulations, 33 CFR Parts 320 through 330. These regulations are applicable to activities in or near navigable waters. They prohibit unauthorized obstruction or alteration of navigable waters.

*Protection of Wetlands*, Executive Order 11990; 40 CFR 6.302(a); 40 CFR Part 6, Appendix A. This executive order and regulations apply to response activities in wetlands. They require federal agencies to avoid adversely impacting wetlands, minimize wetland destruction, and preserve the value of wetlands.

*Protection of Floodplains*, Executive Order 11988, 40 CFR 6.302(b) and Appendix A. This executive order and implementing regulations are applicable to the remedial actions within the floodplain of affected streams and their tributaries. Federal agencies are required to evaluate the potential effects of actions that take place in floodplains and to avoid adverse impacts.

*Idaho Lakes Protection Act* regulations, IDAPA 20.03.04. These regulations are applicable to remedial work within the beds or waters of navigable lakes of the state. They require that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration.

**8 OTHER REQUIREMENTS**

*Hazardous Materials Transportation Act* regulations, 49 CFR Parts 171-180. These regulations apply to the movement of contaminated materials along public highways and require packaging, documentation, and placarding appropriate to the materials being transported.

**9 TO BE CONSIDERED (TBC's)**

*Responsibilities of Federal Agencies to Protect Migratory Birds*, Executive Order 13186 (66 FR 3853, Jan. 17, 2001). This Executive Order encourages Federal Agencies to integrate migratory bird conservation principles into Agency plans and activities. Such efforts may include preventing or abating pollution for the benefit of migratory birds or restoring or designing migratory bird habitat. Substantive elements of this Executive Order are TBCs for the implementation of the selected response action.

*Design and Construction of RCRA/CERCLA Final Covers*, EPA/625/4-91/025, May 1991. This publication provides guidelines for the design and construction of these covers.

*Best Management Practices for Soils Treatment Technologies* (EPA OSWER, 1997). This TBC provides technologies for controlling cross-media transfer of contaminants during materials handling activities.

*Considering Wetlands at CERCLA Sites*, EPA OSWER 9280.03, 1994. This guidance is a TBC that discusses the consideration of potential impacts of response actions on wetlands at CERCLA sites.

*Idaho Non-Point Source Management Plan*, 1999. This plan is a TBC for response activities that disturb soils and sediments. The plan requires activities to be consistent with the state's goal of restoration, maintenance, and protection of the beneficial uses of both surface water and groundwater. Long-term goals include design and implementation of BMPs for surface water and groundwater.

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## USDOJ BUREAU OF LAND MANAGEMENT ARAR LIST FOR MINING REMOVAL ACTIONS IN SOUTHEAST IDAHO

## Bureau of Land Management (BLM) Applicable or Relevant and Appropriate Requirements (ARARs) for the SE Idaho Area Wide Selenium Investigation and CERCLA Removal Actions.

Standard or Requirement	Citation	Applicable	Relevant and Appropriate	To be Considered	Description or Comments
Idaho State's Veterinarian's Office opinion on Selenium levels in forage.				X	Recommends a maximum of 5 ppm (dw) selenium in livestock forage.
National Drinking Water Standards and Safe Drinking Water Act	40 CFR 141	X			Establishes drinking water quality standards.
National Secondary Drinking Water Standards	40 CFR 143			X	Establishes non-enforceable drinking water standards.
Clean Water Act, Federal Water Quality Criteria	33 USC § 1251 et seq., 33 CFR 330 40 CFR 230 40 CFR 131	X			Defines water quality goals to protect said water's designated uses. Regulates disposal of dredge or fill material
Solid Waste Disposal Act as Amended by the Resource Conservation and Recovery Act of 1976	42 USC § 6901 et seq., 40 CFR 257, 40 CFR 261, 40 CFR 262,		X		Regulates the storage and handling and disposal of solid waste. Establishes procedures for listing and determining hazardous waste. Establishes standards for the generation of hazardous waste. Regulates transportation of hazardous waste.

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Executive Order 11990 Protection of Wetlands	40 CFR 6.302	X			Minimizes impacts to Wetlands
Wetlands Protection Act	40 CFR 6.302	X			Regulates impacts to wetlands.
Fish and Wildlife Coordination Act	16 USC § 661 et seq. 40 CFR 6.302	X			Regulates stream alterations and modifications to protect fish and other natural resources.
Mineral Leasing Act	30 USC § 181 et seq., 43 CFR 3500- 3599	X			Regulates discovery, mining, processing and reclamation on Federal phosphate leases.
The Federal Land Policy and Management Act of 1976, as amended (FLPMA)	43 USC §§ 1701- 1782	X			Regulates the management of public lands to protect scenic, historical, environmental, and scientific values.
Occupational Safety and Health Act	29 USC §§ 651- 678	X			Regulates worker health and Safety. Also applies if herbicides are used.
Rivers and Harbors Act	33 USC § 401 et seq. 33 CFR 320- 330	X			Regulates alteration of waterways.

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Executive Order 11990 Protection of Wetlands	40 CFR 6.302	X			Minimizes impacts to Wetlands
Wetlands Protection Act	40 CFR 6.302	X			Regulates impacts to wetlands.
Fish and Wildlife Coordination Act	16 USC § 661 et seq. 40 CFR 6.302	X			Regulates stream alterations and modifications to protect fish and other natural resources.
Mineral Leasing Act	30 USC § 181 et seq., 43 CFR 3500- 3599	X			Regulates discovery, mining, processing and reclamation on Federal phosphate leases.
The Federal Land Policy and Management Act of 1976, as amended (FLPMA)	43 USC §§ 1701- 1782	X			Regulates the management of public lands to protect scenic, historical, environmental, and scientific values.
Occupational Safety and Health Act	29 USC §§ 651- 678	X			Regulates worker health and Safety. Also applies if herbicides are used.
Rivers and Harbors Act	33 USC § 401 et seq. 33 CFR 320- 330	X			Regulates alteration of waterways.



**State of Idaho Applicable Relevant and Appropriate  
Requirements (ARARs) and TBCs for the Southeast Idaho  
Phosphate Mining Resource Area CERCLA Activities**

**Applicable Requirements:**

Potential ARARs	Citation	Description
Endangered Species (IDFG)	Idaho Code §36-201	Authorizes the naming of threatened or endangered wildlife/protected non-game species.

Location-specific ARAR deemed to be potentially applicable on the basis that given biota could be identified as endangered or threatened and in need of protection.

Protection of Animals and Birds (IDFG)	Idaho Code §36-1101 to 1103	Prohibits intentional disturbance or destruction of eggs or nests.
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Location-specific ARAR deemed to be potentially applicable if remedial activities necessitate disruption of bird nests in forested, meadow or wetland areas.

Hazardous Waste Management Act of 1983	Idaho Code §36-4401	Authorizes rules for generation, collection, treatment, storage, disposal, and transport of hazardous waste consistent with RCRA. Requires a permit for treatment, storage, discharge, incineration, release, spilling, placement, or disposal of hazardous wastes. Establishes treatment requirements for certain wastes prior to disposal into or on land. Requires that manifested waste be treated, stored, or disposed of in a permitted facility.
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## IDAHO DEQ STATE ARAR LIST

Hazardous Waste Identification	IDAPA 58.01.05.005	Identifies characteristic and listed hazardous waste including: Cadmium 1.0 mg/l TCLP Chromium 5.0 mg/l TCLP Selenium 1.0 mg/l TCLP
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Activity-specific ARAR potentially applicable for sampling, site characterization, management of purge water and remediation wastes

Hazardous Waste Generation	IDAPA 58.01.05.006	Rules for generators of hazardous waste. Purge water from any ground water sampling should be containerized and labeled as purge water until sampling results are received. Then appropriate disposal pathway can be determined.
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Hazardous Waste Transportation	IDAPA 58.01.05.007	Rules for transporters of hazardous waste
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Activity-specific ARAR potentially applicable if hazardous wastes are encountered.

Hazardous Waste Permits	IDAPA 58.01.05.006 and .012	Rules for hazardous waste permits
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Hazardous Waste Disposal	IDAPA 58.01.05.011	Land disposal requirements
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Hazardous Waste Management Act of 1983	1993 Session Law Ch. 291, Sections 1-8	Revises the definition of restricted hazardous waste. Deletes exemptions for certain mining wastes. Changes the process for the Board to identify hazardous wastes. Allows release of confidential information to safe guard public health and safety. Changes disposal fees.
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Activity-specific ARARs should be reviewed for applicability to specific mine sites and proposed actions.

## IDAHO DEQ STATE ARAR LIST

Idaho Department of Water Resources (IDWR)	Idaho Code §§42-1701 to 1721 and IDAPA 37.03.06	Regulates construction, enlargement, alteration, repair, maintenance, operation and removal of dams, reservoirs, mine tailings and impoundment structures including plan and specification review and inspections.
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Activity-specific ARAR deemed to be applicable for mine tailings areas.

Idaho Department of Water Resources (IDWR)	Idaho Code §§42-3801-3813 and IDAPA 37.03.07	Requires a permit or compliance with "minimum stand" for alteration of stream channel to protect fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, or water quality. Authorizes the Board to adopt rules to set standards.
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Activity-specific ARAR where there is a high potential for stream channel alteration, construction of berms, and impacts to surface water quality/quantity, this code is deemed to be potentially applicable for habitat protection and protection of water quality.

Water Quality Standards and Wastewater Treatment Requirements	IDAPA §58.01.02	Safeguards the quality of state waters and designates uses, which are to be protected.
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Location-specific ARAR deemed to be potentially applicable.

Administrative Policy on Protection of waters of the State	IDAPA §58.01.02.050.02	Protects surface and ground water for beneficial uses.
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A refinement by definition of the previous applicable component of the ARARs, which is deemed to be applicable.

Antidegradation Policy	IDAPA §58.01.02.051	Requires that existing water uses and water quality, high quality water and ORWs be maintained and protected.
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A refinement by definition of the previous applicable components of the ARARs, which is deemed to be applicable.

## IDAHO DEQ STATE ARAR LIST

Violation of Water Quality Standards	IDAPA §58.01.02.080	Prohibits discharges that violate water quality standards or injure beneficial uses. Allows the agency to authorize short-term exemptions.
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Location-specific ARAR deemed to be applicable on the basis that discharges have the potential to injure beneficial uses.

Analytical Procedures	IDAPA §58.01.02.090	Establishes analytical procedures that must be used to determine compliance with water quality standards.
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Activity-specific ARAR deemed to be applicable for the analytical procedures determining whether water quality standards are being met.

Surface Water Use Classifications	IDAPA §58.01.02.100	Establishes specific beneficial use designations for surface water, which in turn determine applicable standards.
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Location-specific ARAR deemed to be applicable as this section establishes definitions for designations of surface waters in the state.

General Surface Water Use Designations	IDAPA §58.01.02.101	Establishes general surface water use designations for waters not otherwise classified.
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A continuation of the previous applicable component of the ARARS.

Designated Uses	IDAPA §58.01.02.150 to 160	Designates uses for specific water bodies by hydrologic basin.
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Location-specific ARAR deemed to be applicable for designated waters.

## IDAHO DEQ STATE ARAR LIST

General Surface Water Quality Criteria	IDAPA §58.01.02.200	Establishes narrative water quality criteria for hazardous, deleterious and radioactive materials; floating, suspended or submerged matter; excess nutrients; oxygen-demanding materials and sediment.
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Location-specific ARAR deemed to be applicable on the basis of hazardous impacts to surface waters of the state. May be relevant and appropriate if remediation occurs, with a potential to influence sediment loads in surface waters.

General Surface Water Quality Criteria	IDAPA §58.01.02.200.04	Establishes water quality criteria for radioactive materials. MCL= Po-210 7.46 picoCuries/l
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Chemical-specific ARAR commonly associated with phosphate mining.

General Surface Water Quality Criteria	IDAPA §58.01.02.210.1	Establishes water quality criteria (chronic) for toxic substances: Cadmium 1 ug/l Chromium (VI) 10 ug/l Chromium (III) 180 ug/l Nickel 160 ug/l Selenium 5 ug/l Zinc 105 ug/l
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Chemical-specific ARAR deemed to be applicable in establishing surface water quality criteria.

Surface Water Quality Criteria for Use Classifications	IDAPA §58.01.02.250 to .253	Establishes numerical surface water quality criteria for beneficial use classifications.
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Chemical-specific ARAR deemed to be applicable in establishing surface water quality criteria.

## IDAHO DEQ STATE ARAR LIST

Ground Water Quality Standards	IDAPA §58.01.11.200	Protects groundwater for beneficial uses including potable water supplies, establishes use classifications and establishes water quality criteria for ground water. Primary Constituent Standards based on human health: Cadmium 0.005 mg/l Chromium 0.1 mg/l Copper 1.3 mg/l Selenium 0.05 mg/l  Secondary Constituent Standards: Zinc 5.0 mg/l  Provides temporary rule exemption during the time of active mineral extraction.
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Chemical-specific ARAR deemed to be applicable where ground water may be utilized for uses defined in this section.

Non-point Source Discharges	IDAPA §58.01.02.350	Regulates non-point source discharges, designates approved BMWs and provides additional protection for ORW.
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Activity-specific ARAR where mining wastes defined as non-point source may be potentially applicable.

Docket Number 16-0102-9403  As an Amendment to the Water Quality Standards and Wastewater Treatment Requirements	Effective Date 9/24/94	Establishes toxics criteria to surface water to replace the National Toxics Rule. Adds criteria for clean sediment pollution. Modifies criteria for chlorine and ammonia. Establishes procedures for variance and site-specific criteria.
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Location-specific ARAR potentially applicable to toxics criteria for surface water.

## IDAHO DEQ STATE ARAR LIST

Requirements for Water Quality Protection Under Rules and Regulations for Ore Processing and Cyanidation	IDAPA §58.01.13.200	Specifies minimum design and performance standards for containment capacity. Impounds, liners, water quality monitoring, disposal or abandonment of leached ore, seasonal closure and storage of cyanide compounds.
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Activity-specific ARAR deemed applicable for performance standards, liners (if utilized), etc.

Fences in General (LEAs)	Idaho Code §§35-101 to 112	Establishes construction requirements, such as height and distance between posts, for all types of fences. Defines who is responsible for construction and maintenance of enclosure and partition fences.
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Activity-specific ARAR if fencing is required to protect installment(s) associated with remediation, the section potentially addresses parameters for fence construction and maintenance.

Idaho Forest Practices Act (IDL)	Idaho Code §§38-1301 to 1314 and IDAPA 20.02.01 et seq.	Protects forest soil, air, water resources, wildlife and aquatic habitat. Rules establish minimum standards for forest practices, including reforestation, road construction, tree salvage and use of chemicals for growing trees. Requires agency notification before commencing a forest practice or converting forestland to other uses. Converted lands must have vegetative cover. Requires establishment of methods to control cumulative effects on watersheds and site-specific best management practices (BMPs).
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Location-specific ARAR deemed applicable in the event remediation requires construction components.

## IDAHO DEQ STATE ARAR LIST

Idaho Forest Practices Act (IDL)	1995 Session Law Ch. 352, Sec. 2-5 Idaho Code §38-1306 IDAPA 20.02.01 et seq.	Amends I.C. § 38-1306 regarding notification of forest practice and adds new section 1306B regarding requirements for operating bonds.
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Location-specific ARAR may be applicable if remediation requires construction, which could potentially impact habitat. The PRPs may be required to post bond(s).

Surface Mining (IDL)	Idaho Code §§47-1501 to 1519 and IDAPA 20.02.140	Establishes standards and authorizes rules for reclaiming lands affected by surface exploration and mining, including recontouring, erosion control and revegetation. Requires implementation of best management practices that prevent the release of hazardous or deleterious constituents, and protect surface water quality. The Land Board must approve all reclamation plans.
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Activity-specific ARAR where surface mining wastes are already in existence, this section may fall into the realm of relevant and appropriate. If remediation is required, may have applicable components as they relate to contouring erosion control and revegetation.



## IDAHO DEQ STATE ARAR LIST

**Relevant and Appropriate Requirements:**

Potential ARARs	Citation	Description
Water Pollution Abatement (DEQ)	Idaho Code §§39-3614 to 3621 and IDAPA 58.01.02.051 through .059	Provides for designation of Outstanding Resource Waters (ORWs). Prohibits new or modified non-point source activities that lower water quality in ORWs without use of approved ORW BNTS. Allows temporary activities that do not alter uses or character of a stream segment.

Location-specific ARAR deemed relevant and appropriate in prohibiting water quality degradation.

Water Pollution Abatement	1995 Session Law Ch. 352, Section 1 §§39-3601 to 39-3639	Repeals I.C. § 38-1314 and I.C. §§39-3614 through 39-3621. Creates a new Chapter 36 regarding water quality, which protects surface water quality and establishes an environmental remediation fund.
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Location-specific ARAR may contain relevant and appropriate components relative to protecting surface water.

Hazardous Substance Emergency Response Act (SERC)	Idaho Code §§39-7101 to 7115	Requires notification of a hazardous substance release. Requires development and implementation of the Hazardous Materials Incident Command Response Plan. Establishes liability for costs arising from a hazardous substance incident.
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Activity-specific ARAR if a remediation activity required a hazardous constituent be collected and conveyed to a TSDF, this section could apply to transport of the constituent from the site especially if it is spilled en route.

## IDAHO DEQ STATE ARAR LIST

Site Specific Surface Water Quality Criteria	IDAPA §58.01.02.275 to 280	Establishes surface water quality standards for water discharged from dams, reservoirs and hydroelectric facilities and for other named waters.
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Activity-specific ARAR deemed relevant and appropriate as this ARAR sets for standards for designated surface waters.

Dredge and Placer Mining (IDL)	Idaho Code §§47-1301 to 1324 and IDAPA 20.03.01.040	Requires reclamation after mining and establishes narrative standards. Prohibits dredge mining on National Wild and Scenic Rivers. Includes specific requirements for restoration of disturbed lands. Authorizes rules.
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Activity-specific ARAR may be relevant or appropriate for restoration activities.

**To Be Considered:**

To Be Considered Item	Citation	Description
Guidelines for Interpretation of Biological Effects of Selected Constituents in Biota, Water and Sediment	National Irrigation Water Quality Program Information Report No. 3, Nov 1998, DOI	Provides information on selenium effects and thresholds from other historical sites.

May be taken into consideration in interpretation of observed data and potential toxicological effects.

IDEQ Area Wide Risk Management Plan	Idaho Department of Environmental Quality, February 2004	Guidance document for regional removal action goals and objectives, and action levels.
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Shall be taken into consideration for site-specific risk management needs.

Idaho Risk-Based Decision-Making for Remedial Action Guidance Document	Idaho Department of Environmental Quality, December 2003	Guidance document for risk-based decision-making using human health and transport models.
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May be taken into consideration in areas where ecological risks are not a factor.

Idaho Forestry Act (IDL)	Idaho Code §§38-101 to 136 and IDAPA 20.02.01.070	Protects forest and watersheds, primarily by fire prevention and suppression. Establishes requirements for disposing of slash from land and for clearing rights of way.
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May need to be taken into consideration if rights of way are at issue or if slash is generated as a result of remediation.

Docket Number 16-0102-9401 (Temp)	9/1/94	Established a site-specific variance from ambient water quality standards for the Kinross DeLamar Mining Company.
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To be considered if site-specific variances are proposed for a particular location or source.

**EASTERN IDAHO  
SUPERVISORY AREA**  
3563 Ririe Highway  
Idaho Falls ID 83401  
Phone (208) 525-7167  
Fax (208) 525-7178  
E-mail: cmorris@idl.state.id.us



**WINSTON A. WIGGINS, DIRECTOR**  
EQUAL OPPORTUNITY EMPLOYER

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February 18, 2004

Department of Environmental Quality  
Attn: Rick Clegg  
15 West Center Street  
Soda Springs, ID 83276

Dear Mr. Clegg:

The Idaho Department of Lands (IDL) concurs with Idaho Department of Environmental Qualities (IDEQ) Applicable or Relevant and Appropriate Requirements (ARAR) for the Area Wide Risk Management Plan: Removal Action Goals and Objectives, and Action Levels for Addressing Releases and Impacts from Historic Phosphate Mining Operations in Southeast Idaho.

IDL, although not on the MOU list for this plan, has been involved in its procedures and offered remarks to it. Furthermore, IDL values the opportunity to comment on these procedures.

Sincerely,

Christopher E. Morris  
Minerals Resource Manager

CEM/cm

## SHOSHONE-BANNOCK TRIBE'S FINAL ARAR LIST

**Shoshone Bannock Tribes Applicable Relevant and Appropriate Requirements (ARARs) for the Southeast Idaho Phosphate Mining Resource Area CERCLA Activities.**

**Applicable Requirements:**

Potential ARARs	Citation	Description
Fort Bridger Treaty 1868	15 Stat 675	Established the Reservation as a "permanent home" for the signatory tribes. Established reserved off-reservation hunting, fishing and gathering rights to the tribes, these rights are exercised on public lands through out the state of Idaho.

Tribal Constitution and Bylaws 1936	Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended by the act of June 15, 1935 (49 Stat. 378)	Established the policy and procedures for Fort Hall Business Council.
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Fort Hall Water Rights Agreement 1994	WATR 02-S2 & WATR 02-S3	Established the Tribes right to adequate and clean, safe water.
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2/26/04

US Forest Service ARAR List for Mining Removal Actions in Southeast Idaho

Standard, Limitation, or Requirement Criteria	Citation	Description	Action, Contaminant or Location	Applicable / Relevant and Appropriate or To Be Considered
<b>Action Specific Requirements</b>				
Clean Water Act (CWA)	33 USC 1342 - 1344 40 CFR 122	Water pollution prevention and control for point source discharges	Action: On-site discharges of point-source water	Substantive requirements are applicable to on-site discharges of point-source water. State-delegated program so would defer to state requirements.
CWA: Section 404	33 CFR 323	Dredge or fill requirements. This regulation prohibits discharge of dredged or fill material into waters of the United States without a permit	Action: Dredging or filling wetlands	Substantive requirements are applicable for any on-site action that involves dredging or filling in a wetland
CWA: Storm Water Discharges	40 CFR 122.26	Water pollution prevention and control of storm water discharges	Action: On-site discharges of storm water during construction	Substantive requirements are applicable to on-site discharges of construction-related storm water. State-delegated program so would defer to state requirements.
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)	7 USC 136(q)	Requirements for control of pesticides	Action: Storage, use, disposal, and transportation of pesticides	Not an ARAR unless pesticides are to be used during cleanup
Hazardous Materials Regulations	49 CFR 171 - 173 & 177 49 USC 1801 - 1813	The movement of hazardous materials on public roadways must be in accordance with placarding, packaging, documentation and other requirements of this regulation.	Action: Transportation	These regulations are applicable to the off-site transport of hazardous materials on public highways.
Migratory Bird Treaty Act	16 USC 703 et seq.	Taking, killing, possessing migratory game unlawful	Action	Applicable

US Forest Service ARAR List for Mining Removal Actions in Southeast Idaho

Standard, Limitation, or Requirement Criteria	Citation	Description	Action, Contaminant or Location	Applicable / Relevant and Appropriate or To Be Considered
RCRA: Criteria for Municipal Solid Waste (MSW) Landfills	40 CFR 258.50-56	Requirements for engineered disposal facilities to ensure appropriate assessment, monitoring, and protection of groundwater.	Action: Post-removal ground-water monitoring	Relevant and Appropriate. Would defer to monitoring requirements in state-delegated solid waste or mined land reclamation program.
RCRA: Criteria for Municipal Solid Waste (MSW) Landfills	40 CFR 268.80(a)(1-3)	Closure criteria for capping MSW facilities.	Action: Capping	Relevant and Appropriate. Would defer to monitoring requirements in state-delegated solid waste or mined land reclamation program.
Resource Conservation and Recovery Act (RCRA): Land Disposal Restrictions	40 CFR 268	Establishes restrictions for land disposal of hazardous wastes	Action: Land Disposal	Not an ARAR because the material to be cleaned up is exempt from hazardous waste regulations
SDWA: Underground Injection Control Program	40 CFR 144	Regulates underground injection into certain classes of wells. Its purpose is to prevent contamination of ground water that may be a source of drinking water.	Action: Underground injection	Relevant and appropriate if underground injection is necessary for the cleanup.
Surface Mining Control and Reclamation Act (SMCRA)	30 USC 1201 - 1326 30 CFR 810 30 CFR 784	Permanent program performance standards - surface mining activities. Surface mining permit applications - minimum requirements for reclamation and operations plan	Action: Capping, run-on and run-off control, revegetation	Relevant and Appropriate. Would defer to state-delegated solid waste or mined land reclamation program requirements.
<b>Contaminant Specific Requirements</b>				
Clean Air Act National Primary and Secondary Ambient Air Quality Standards (NAAQS)	42 USC 7409 40 CFR 50	Establishes Air Quality Levels that protect public health	Contaminant: Fugitive Dust	Defer to the State of Idaho requirements for the control of fugitive dust
Clean Air Act - NESHAP's	40 CFR 61	The Environmental Protection Agency has promulgated standards for certain hazardous air pollutants from specific sources	Contaminant: Hazardous Air Pollutants.	Not an ARAR because no hazardous air pollutants likely to be encountered

US Forest Service ARAR List for Mining Removal Actions in Southeast Idaho

Standard, Limitation, or Requirement Criteria	Citation	Description	Action, Contaminant or Location	Applicable / Relevant and Appropriate or To Be Considered
CWA: Water Quality Standards	40 CFR 131	Sets criteria for water quality based on toxicity to aquatic organisms and human health. Requires states to develop standards based on the criteria.	Contaminant: Various	Federal Ambient Water Quality Criteria are ARAR's only if there is no state or federal standard for Contaminants of Potential Concern (COPCs) identified by the IDEQ's Area Wide Investigation, or if there is a standard, but the Forest Service chooses to add an extra measure of protection and go beyond the standard to the criteria.
Emergency Planning & Community Right to Know Act	42 USC 11001 et seq.	Also known as Title III of Superfund Amendments and Reauthorization Act (SARA). Designated to help local communities protect public health, safety, and the environment from chemical hazards	Contaminant: Various	Not an ARAR
Pollution Prevention Act	42 USC 13101 & 13102 et seq.	Focused industry, government, and public attention on reducing the amount of pollution through cost-effective changes in production, operation, and raw materials use	Contaminant: Various	Not an ARAR
RCRA: List of Hazardous Wastes	40 CFR 261, Subpart C and D	Defines those solids wastes which are subject to regulation as hazardous wastes under 40 CFR Parts 262-265 and Parts 124, 270, and 271. The Bevill Exclusion at 40 CFR 261.4(b)(7) excludes solid waste from the extraction, beneficiation and processing of ores and minerals including phosphate rock from the definition of hazardous waste.	Contaminant: Various	RCRA hazardous waste regulations are not applicable - parts of the RCRA regulations may be relevant and appropriate and are discussed under the action and location specific requirements

US Forest Service ARAR List for Mining Removal Actions in Southeast Idaho

Standard, Limitation, or Requirement Criteria	Citation	Description	Action, Contaminant or Location	Applicable / Relevant and Appropriate or To Be Considered
Safe Drinking Water Act (SDWA): National Primary Drinking Water Regulations	40 CFR 141	Establishes health-based standards (MCLs) for public water systems	Contaminant: Various	Relevant and appropriate if alternative involves the cleanup of groundwater. Would defer to standards established in state-delegated program.
SDWA: National Secondary Drinking Water Regulations	40 CFR 143	Establishes welfare-based standards (secondary MCLs) for public water systems	Contaminant	To Be Considered if removal involves groundwater cleanup. Would defer to standards established in state-delegated program.
Toxic Substances Control Act	15 USC 2601 et seq.	Enacted by Congress to give EPA the ability to track the 75,000 industrial chemicals currently produced or imported into the United States	Contaminant: Listed Toxic Substances	Not an ARAR for phosphate mines since toxic substances not likely to be encountered.
<b>Location Specific Requirements</b>				
American Indian Religious Freedom Act	42 USC 1996 et seq.	To protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites	Location: Ceremonial sites and areas where sacred objects are located	Substantive requirements are applicable to on-site actions
Archaeological and Historic Preservation Act	40 CFR 6.301(c) 16 USC 488 et seq.	Data recovery and preservation activities	Location: Sites with significant scientific, prehistoric, historic, and archaeological data	Substantive requirements are applicable to on-site actions
Archaeological Resources Protection Act	16 USC 470(aa-ii) 43 CFR 7	Steps must be taken to protect archaeological resources and sites that are on public and Indian lands and to preserve data	Location: Archaeological resource sites	Substantive requirements are applicable to on-site actions

## US Forest Service ARAR List for Mining Removal Actions in Southeast Idaho

Standard, Limitation, or Requirement Criteria	Citation	Description	Action, Contaminant or Location	Applicable / Relevant and Appropriate or To Be Considered
Bald and Golden Eagle Protection Act	16 USC 669 et seq. 50 CFR 22	Prohibits any person from knowingly possessing or harming a bald or golden eagle, part of or complete nest, egg or part of Bald Eagle without being permitted to do so	Location: Eagle nesting sites	Substantive requirements are applicable to on-site actions
Caribou-Targhee Land Use Management Plan (National Forest Management Act)	16 USC 1601 - 1614 36 CFR 219	Establishes multiple use goals and objectives, forest-wide management requirements, and monitoring and evaluation requirements. Establishes direction so that future decisions affecting the Forest will include an interdisciplinary approach to achieve integrated consideration of physical, biological, economic and other sciences.	Location: Caribou-Targhee National Forest	Substantive requirements are applicable to on-site actions.
Endangered Species Act	7 USC 1335 16 USC 480 16 USC 1531 et seq. 40 CFR 6.302 50 CFR 402	Federal Agencies are prohibited from jeopardizing T&E Species or adversely modifying habitats essential to their survival. Requires consultation with the Service charged with protecting listed species	Location: Critical habitat of an endangered or threatened species.	Substantive requirements are applicable to on-site actions.
Federal Land Policy and Management Act (FLPMA)	43 USC 1701 - 1785	Public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process, and that the land be managed for the use and protection of the land and its natural resources	Location: Primarily Federal lands administered by BLM	Not likely to be an ARAR for most land administered by the Forest Service.
Fish and Wildlife Coordination Act	16 USC 661 et seq. 16 USC 1531 - 1565 40 CFR 6.302(g)	Requires Federal agencies involved in actions that will result in the control or structural modification of any natural stream or body of water for any purpose, to take action to protect the fish and wildlife resources that may be affected by the action	Location: Streams and waterways	Substantive requirements are applicable to on-site actions.



US Forest Service ARAR List for Mining Removal Actions in Southeast Idaho

Standard, Limitation, or Requirement Criteria	Citation	Description	Action, Contaminant or Location	Applicable / Relevant and Appropriate or To Be Considered
National Historic Preservation Act National Historic Landmarks Act	16 USC 470 et seq., 36 CFR 60, 63, 65 & 800 40 CFR 8.301(b & c)	Section 106 of the NHPA process, balances needs of Federal undertaking with the effects the undertaking may have on historic properties. If historic properties or landmarks eligible for, or included in, the National Register of Historic Places exists within remediation areas, remediation activities must be designed to minimize the effect on such properties	Location: Historic Properties	Substantive requirements are applicable to on-site actions
Native American Graves Protection and Repatriation Act	25 USC 3001 et seq. 43 CFR 10	This pertains to the identification and appropriate disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony found on Federally controlled lands	Location: Native American Grave sites	Substantive requirements are applicable to on-site actions
Protection of Floodplains	40 CFR 8.302(b) 40 CFR 8 Appendix A Executive Order 11988	Requires federal agencies to evaluate the potential effects of actions they may take in a floodplain to avoid, to the adverse impacts associated with direct and indirect development of a floodplain	Location: Floodplains	Substantive requirements are applicable to on-site actions
Protection of Wetlands	40 CFR 8.302(a) 40 CFR 8 Appendix A Executive Order 11990	Wetlands protection: Agencies conducting certain activities are required to avoid, to the extent possible, the adverse impacts associated with the destruction or loss of wetlands and to not support construction in wetlands if a practical alternative exists	Location: Wetlands	Substantive requirements are applicable to on-site actions

Standard, Limitation, or Requirement Criteria	Citation	Description	Action, Contaminant or Location	Applicable / Relevant and Appropriate or To Be Considered
Hazardous and Solid Waste Regulations	40 CFR 264.18	Location standards and restrictions for hazardous waste treatment, storage, and disposal (TSD) facilities	Location: Fault zones, floodplains, salt domes, underground mines, caves	Not applicable because we will not be siting a new TSD facility and the material we will be addressing is exempt from hazardous waste regulations. Location restrictions could be relevant and appropriate to any alternative that involves siting a new disposal facility.
Hazardous and Solid Waste Regulations Municipal Solid Waste Facilities	40 CFR 267.3(1-4)	Location standards and restrictions for solid waste disposal facilities	Location: Near surface water, groundwater, endangered species, or floodplains	Relevant and appropriate to any alternative that involves siting a new disposal facility
Hazardous and Solid Waste Regulations Municipal Solid Waste Facilities	40 CFR 255-10-15	Location standards and restrictions for municipal solid waste disposal facilities	Location: Wetlands, fault areas, seismic zones, unstable areas, or near airports	Relevant and appropriate to any alternative that involves siting a new disposal facility
Historic Sites Act	16 USC 461 - 467 40 CFR 8.301(a) 38 CFR 62	Requires Federal agencies to consider the existence and location of potential and existing National Natural Landmarks to avoid undesirable impacts on them.	Location: National Natural Landmarks	Substantive requirements are applicable to on-site actions

## U.S. Fish and Wildlife Service Authorities

<u>Endangered Species Act</u> (ESA) of 1973, as amended	16 U.S.C. 1531 <i>et seq.</i> 50 C.F.R. § 402.02.	The Act provides for the conservation of ecosystems upon which endangered and threatened species depend, both through Federal action and by encouraging the establishment of State programs.
<u>Migratory Bird Treaty Act</u> (MBTA) as amended	16 U.S.C. 703; Ch. 128; 40 Stat. 755.	Established a Federal prohibition, unless permitted by regulations, to "pursue, hunt, take, capture, kill, attempt to take, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this convention...for the protection of migratory birds...or any part, nest, or egg of any such bird"
Bald Eagle Protection Act of 1940 as amended	16 U.S.C. 668, 54 Stat. 250	Provides for the protection of the bald eagle and the golden eagle by prohibiting, except under certain specified conditions, the taking, possession and commerce of such birds.